



**Request for City Council Committee Action
From the Department of City Coordinator**

Date: November 19, 2002

To: The Honorable Scott Benson, Chair, Intergovernmental Relations Committee

Subject: Civilian Review Policy Issues

Previous Directives

February 15, 2002 Ways and Means

Civilian Review Authority Section – Provide an additional \$100,000 for continuation of the civilian review function – for an amended total of \$200,000; and change the remaining language in that section to read “Phase out existing internal Civilian Review Authority, keeping current processes in place until new authority is developed and implemented. Refer subject matter to Public Safety & Regulatory Services and Health & Human Services Committee.”

March 1, 2002 Health and Human Services and Public Safety and Regulatory Services

The City Coordinator be directed to convene a work group comprised of the City Attorney, Civil Rights, Civilian Review Board, Council staff, the Police Federation, the Police Administration and interested citizens, with a report back at the next meeting of Health & Human Services and Public Safety & Regulatory Services with a proposed schedule for the work group.

April 5, 2002 Health & Human Services and Public Safety & Regulatory Services

Your committee, having under consideration the redesign of the Civilian Police Review Authority, now recommends that the City Council reaffirms its action of March 1, 2002 directing the City Coordinator to convene a work group to develop recommendations to redesign the Civilian Police Review Authority so that it is more effective and responsive to the community and to include community representatives in developing these recommendations. Your committee further recommends that the City Coordinator be directed to present his recommendations in sufficient time so that Council action may occur at the June 7, 2002 Council meeting.

Prepared by Lori Olson, Assistant to the City Coordinator

Approved by John Moir, City Coordinator

Presenters in Committee John Moir, City Coordinator

Financial Impact (Check those that apply)

☒ **X** No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

Background/Supporting Information Attached

On March 1, 2002, the City Coordinator was directed by the Health & Human Services and Public Safety & Regulatory Services Committees to begin a process for redesigning the Civilian Review Authority. Working with the Mayor's Office and Council Members Lilligren and Zerby, we developed a 24-member work team composed of community members and city representatives that developed recommendations for a new process for reporting complaints against Minneapolis Police Officers.

The result of this team's effort is the "CRA Redesign Action Group Recommendations" report, which the Committee of the Whole reviewed on August 29, 2002. The report recommended a structural model and a series of outcomes to be achieved as a result of this redesign. Many of the outcomes can be accomplished through changes to city ordinances and administrative procedures, which we are in the process of implementing. However, a number of the recommendations involve legislative and collective bargaining issues that require further discussion.

This report outlines the legislative issues that are presented today for Council consideration.

1. **Residency - Consider a residency requirement for Minneapolis Police.**

The purpose of this recommendation is to ensure that police officers have a commitment to the area in which they are policing and a knowledge of the people and cultures who live in that area. In 1999, the State Legislature repealed the City of Minneapolis residency requirement. The City fought this issue over two legislative sessions but ultimately failed to retain the residency requirement authority.

Recommendation: Staff recommends that the City should not pursue a residency requirement for police officers. The City's residency requirement was repealed by the State Legislature in 1999 after a lengthy, acrimonious debate that adversely affected the image of the City. The City should not pursue this issue as part of its 2003 legislative agenda.

2. **Subpoena Power – Grant civilian review function the authority to subpoena.**

Granting subpoena power would give the civilian review function access to the maximum amount of information needed to make an informed decision and enables the body to secure information from sources other than the police. Currently, neither the Police Department's Internal Affairs Division nor the civilian review function has subpoena power. The current CRA ordinance provides that subpoena power for the civilian review function could happen upon charter or legislative authorization.

Recommendation: Staff recommends that Council should pursue subpoena power for the civilian review function through a City Charter (13-0) amendment. Should this amendment fail, the issue could be revisited as part of the City' 2004 legislative agenda.

3. A. Access to Personnel Records
B. Openness/Transparent Process

Both of the recommendations above would require changes to the Minnesota Government Data Practices Act (“MGDPA”), which governs all “government data” collected, created, stored, maintained, and disseminated by any governmental body or agency. Data that is collected, created, stored, maintained or disseminated because a person is an employee of the City of Minneapolis – including police officers -- is considered “personnel data” under the MGDPA and is, therefore, private.

Under the MGDPA, no information about the case or the person can be made public if an employee is found not guilty of charges made against him/her. Further, because all City of Minneapolis employees who are represented by a union have the right to appeal any disciplinary action, very little information can be made public until an appeal is made and resolved. If the employee is disciplined, only information regarding the nature of the discipline and “the specific reasons for the action and data documenting the basis of the action” can be released. Because state law allows for an appeals process, case information cannot be shared during the process, which gives the impression that the civilian review process is not open nor transparent; the City, however, is bound by the MGDPA and cannot make the information public. Additionally, none of the underlying investigatory data is public information when no discipline is imposed. When a case is not sustained, there is no mechanism under current law for information to be relayed to the complainant nor the public about the reasons that the charges were not sustained.

Recommendation: Staff recommends that the City not seek amendments to the Minnesota Government Data Practices Act as part of its 2003 legislative agenda for a number of reasons. An amendment to open personnel records for public review would be considered a major revision to the MGDPA. Even a minor change to the law would require significant staff/budgetary resources without a favorable result. Further, the City is rarely successful at the legislature in “Minneapolis-only” provisions. To propose a more broad amendment would cause public employee unions to mobilize and oppose the amendment.

The City intends to make the process as open and transparent as possible under current law. The City has always asserted during the civilian review redesign process that tracking trends through summary data regarding charges, complaints and discipline would be an integral part of the redesign to hold the Police Chief and his reports accountable for police misconduct. Regular reports to the City Council and the community on these trends should assist in the “openness” of the process. In addition, the redesigned process provides regular communication with complainants during the process to inform them of the status of their case.

4. Discipline, Graduated Means of Handling Complaints, Tracking and Discipline

The Community Action Group recommended a series of outcomes related to discipline. The Action Group proposed that the civilian review body should determine discipline, based on the severity of the infraction and the past history of the officer involved. Discipline would include points being assigned to the officer. The Action Group felt that a clearly defined point system would provide fairness and predictability for police officers and for the community.

The Minnesota Public Employment Labor Relations Act (“PELRA”) governs labor relations for all employees of the State of Minnesota and its political subdivisions. One of the requirements of PELRA is that public employers meet and negotiate with public employee representatives over “terms and conditions of employment.” One such term and condition of employment is discipline and a process to resolve disputes over discipline. Therefore, recommendations involving discipline, such as the creation of a “point system,” cannot be imposed by the City and, therefore, could be implemented only upon agreement of the Police Federation. In addition, the City Charter grants the Mayor and Chief of Police the authority to discipline officers. Granting the civilian review body the right to discipline officers would require a charter change and agreement by the Police Federation as to not violate PELRA.

Recommendation: Staff recommends that the authority to discipline officers should remain with the Police Chief. Disciplining personnel is an inherent management prerogative. The Minneapolis Police Department already has a “matrix” that outlines behaviors and discipline based on a scale for the severity of offense. This was negotiated with the union and has been utilized successfully by the Police Chief to discipline officers fairly. The issue of disciplining officers in conjunction with the civilian review body could be discussed as part of the next collective bargaining process (2005/2006), but the Federation is unlikely to agree to such a provision.